

Solid Waste Advisory Committee (SWAC) Meeting Summary

October 24, 2013 1:00 PM to 3:00 PM

MassDEP, One Winter Street, Boston, MA

Introductions and MassDEP Updates

John Fischer, MassDEP, provided several updates:

- On November 8, 2013, The Environmental Business Council will be hosting a [program](#) titled: EBC Solid Waste/Renewable Energy/Water Resources Program: Anaerobic Digestion of Food Waste at WWTPs - Comparing Source Separation and "Down the Pipe" Approaches.
- On November 21, 2013 The next Massachusetts [WasteWise Forum](#) will be held at UMass Lowell. The agenda will focus on resource management contracting and UMass Lowell's new food waste diversion program.

New Grant Solicitations and Small Scale Organics to Energy Directory, Amy Barad, Massachusetts Clean Energy Center (MassCEC)

Amy Barad discussed two grant opportunities that are currently open under MassCEC's Organics to Energy program. The first grant is for Construction or Pilot projects to build organics to energy facilities. The second grant is for Technical Services/Technical Studies of organics to energy facilities and is available to public entities only. Both application forms are available at: <http://www.masscec.com/programs/commonwealth-organics-energy> and applications will be reviewed on a rolling basis.

In the near future, MassCEC plans to issue a solicitation for feasibility studies for on-site processing. This needs to be tied into facilities generating organic waste, not primarily merchant facilities.

MassCEC is interested in feedback regarding the need for financial support for pre-processing facilities that produce no energy, but prepare organic feedstocks for use by other energy generating facilities. Currently, no funding is available, but this is under consideration. Contact Amy Barad if interested in discussing potential projects.

Q: How would an organics processing facility taking in source separated organics be permitted by MassDEP?

A: Assuming this is taking in source separated materials, such a facility would require a recycling, composting or conversion facility permit under 16.05.

MassCEC has completed their *Small-Scale Organics-to-Energy Vendor Directory* which is available for download at <http://www.masscec.com/content/small-scale-organics-energy-vendor-directory>. This tool is for small systems (i.e. ½ to 30 tons per day). For approximately 10 of the systems in the *Directory*, MassCEC is in the process of finalizing an economic screening tool. MassCEC plans to release the tool publicly soon, but interested parties can contact Amy if they'd like to use it under MassCEC's guidance sooner. For more information or questions, contact Amy Barad at MassCEC at abarad@masscec.com or visit the MassCEC Organics to Energy program [web page](#).

Contaminated Soils Policy Updates, Sarah Weinstein, MassDEP

Sarah Weinstein provided an update on MassDEP's work on developing contaminated soils policies. These policies are aimed at soil that can't be reused at its original site and may pose a risk in a different location or potentially create a new 21E site under the Massachusetts Contingency Plan (MCP). MassDEP is working to create a policy framework that would allow soil with detectable, but relatively low, levels of contamination to be used at locations where it would support new development projects/uses and where the municipality has approved the use. A new policy issued by MassDEP's Bureau of Waste Site Cleanup expands MassDEP's guidance on managing soils from 21E sites and establishes levels below which testing would not be required at the receiving site (see MassDEP's web site:

<http://www.mass.gov/eea/agencies/massdep/cleanup/regulations/site-cleanup-policies-guidance.html#1>). MassDEP is now looking into its regulatory authority over the management of contaminated soils that is not covered by the MCP, and is also looking at the issue of what types of MassDEP oversight would be appropriate for different kinds of projects.

MassDEP will be setting up some stakeholder discussions over the next several months, and will report back to the SWAC once meeting dates have been set.

Q: If soil isn't considered a solid waste, and if contaminant levels are below those regulated under the MCP, what is MassDEP's authority to regulate that material?

A: MassDEP is investigating this question. One possibility is to use Section 6 of MGL c. 21E, which authorizes the Department to establish requirements for sites where releases may occur and for activities that can cause a release or threat of release of hazardous materials or oil. Soil may not pose a risk at its original location, but may create a new 21E site if it is moved, depending on the soil conditions at the receiving site.

Q: What are the thresholds to move soils?

A: There are existing thresholds in the MCP regarding maximum levels of contamination in soil being re-used as grading/shaping material for landfill closures or for alternative daily cover at active solid waste facilities (POLICY # COMM-97-001). In addition MassDEP recently issued guidance on "Similar Soils" that are moved from 21E sites under the MCP's "anti-degradation" provisions, that clarify the rules that apply to those soil movements.

Q: Will the stakeholder process address the amount of solid waste being brought into landfills for grading and shaping, but then being disposed of at these facilities instead?

A: There are currently no plans to change the current landfill policy. However, we understand that there could be more public education regarding the risks and benefits of using contaminated soils at solid waste management facilities.

Q: If the landfill is not charging a tipping fee for the contaminated soil to be used for grading and shaping, then the landfill is essentially accepting this material for free and

the host community isn't benefiting from the contaminated soil in the landfill. Are there any thoughts to change this?

A: MassDEP doesn't establish tipping fees. In most cases where contaminated soil has been used for grading/shaping material as part of a landfill closure, the facility has charged a tipping fee for this material, which has provided revenue that has then been used to fund all or part of the facility closure as well as operation and monitoring activities that are required during the 30 year post-closure period. Using clean soil for grading and shaping material can significantly increase the project's cost. The host community benefits by reducing or eliminating public health and environmental risks from an uncapped and unlined facility, and may also benefit from any post-closure use.

MassDEP Regulatory Updates, John Fischer and Jamie Doucett

John Fischer provided an update on development of the commercial organics waste ban. The public comment period ended on the draft regulations ended on August 23, 2013. MassDEP received 20 comments from 16 organizations. The comments were mostly supportive of the proposed ban. The most frequent topics addressed in the comments included the one ton per week threshold, generator outreach, education, and enforcement, and specific issues about how the ban would be implemented. MassDEP is currently working on the response to comments and the final regulations package and is aiming to have the final document promulgated at the end of the calendar year. In addition, MassDEP is currently working on a plan and schedule for outreach to a wide range of entities that will be directly or indirectly affected by the proposed waste ban.

Q: There has been mention that 1,700 potential generators may subject to the ban. Can haulers get that list to reach out to their clients? Also, is the list of the sites that take organic waste available?

A: Yes, data on food waste generators and on approved composting sites are on the MassDEP website. See [food waste generator data](#) and list of [food waste composting sites](#). In addition the RecyclingWorks in Massachusetts website features a searchable recycling service provider [database](#) that lists organics haulers and receiving facilities. Note that MassDEP is working to refine the estimates of food waste generation listed in this database and believes that, in particular, the estimates of food waste generation for restaurants in this database are too high.

Jamie Doucett provided an update on implementation of the site assignment regulations that were published in November 2012. Certification and permit application forms are now available for smaller operations through the General Permit Certification and for larger operations through the Recycling, Composting or Conversion (RCC) Operation Permit. There is also a Notification Form for Exempt Recycling & Organics Management Activities for operations that are exempt from the permitting process, but that need to complete and submit this notification. Annual certification forms will be available by the beginning of January for annual certifications due February 15, 2014. All certifications and permits can be found at:

(<http://www.mass.gov/eea/agencies/massdep/recycle/approvals/solid-waste-applications-and-forms.html>)

Q: Will the new permits require the amount composted to be reported?

A: Yes, MassDEP is intending to include the previous compost site report within this new annual certification report.

Q: How many applications have been received so far?

A: Only a few because these new permits apply only to new facilities. Facilities with active permits can still operate under their current permit for up to five years. Active operations that were exempt under the former permitting process now need to submit a certification.

Q: What is the status of potential changes relative to MEPA applicability?

A: MEPA has not made any changes regarding MEPA applicability.

Q: What is the status of the Department of Agriculture (DAR) regulation updates? Will operations be permitted under DAR and DEP?

A: Draft regulations are still under review at DAR. If a farm compost operation is in compliance with DAR's regulations, then they are not subject to MassDEP's regulations. MassDEP encourages farm compost operations to apply with DAR, unless the quantity handled by the operation falls outside of the DAR's regulations or if it is an anaerobic digestion facility, which falls outside of DAR's authority. .

Q: What is the status of the sludge rule modifications?

A: The rules have changed so source separated organics received at a Waste Water Treatment plant can be managed as part of the waste water facility permit without requiring a solid waste permit. If an operation not at a wastewater treatment plant wants to receive and compost or digest sludge in addition to food waste, then it needs to receive a solid waste site assignment.

Q: Do municipal compost facilities need a permit?

A: This would depend on the type and amount of materials received. Smaller facilities would be regulated under the general permit provisions. Larger facilities would require an RCC permit.

Q: How will digestate from an AD facility be regulated?

A: Typically, it will fall under DAR regulations if being used as a fertilizer (either land applied or sold as a product). If sludge is in the digestate, then it would fall under the waste water sludge regulations. If material is being sold or marketed for some other purpose, it may require a beneficial use determination from MassDEP.

Jamie Doucett then provided an update on the regulation reform regulations package that proposes certification for transfer stations, presumptive approvals for certain post-closure uses of landfills and special waste acceptance, and increased 3rd party inspections. The public comment period on these draft regulations ended in February 2013 and the final package and response to

comment is in internal review. MassDEP hopes to have this to be promulgated by the beginning of 2014. Additional implementation steps have been identified including: the need for certification forms and applications, updating regulation citations in permit forms,, and developing a review process for third party inspectors. MassDEP will be prioritizing the implementation steps that will need to happen at or shortly after promulgation.

John Fischer summarized MassDEP's strategy for increasing waste ban compliance. The Solid Waste Master Plan established increased compliance with waste bans as a priority. MassDEP has developed a three part strategy to drive increased waste ban compliance:

- 1) Utilize the third-party waste ban compliance professional data to target outreach efforts, identify repeat violators, and target inspections.
- 2) Increase MassDEP inspections focused on waste ban compliance by waste generators and haulers. Three new dedicated waste ban inspectors were recently hired and have been conducting inspections and taking enforcement.
- 3) Refer generators and violators to RecyclingWorks (<http://www.recyclingworksma.com>) for assistance.

In addition to the proposed commercial organics ban, MassDEP has proposed changes to the solid waste facility waste ban guidance document that would lower the action levels of several banned materials with the goal of increasing communication to waste haulers and generators about disposal of banned materials.

Q: What is MassDEP's plan to reach out to those possibly subject to the organics ban?

A: MassDEP has already been conducting outreach by speaking at meetings and reaching out to contact entities that will potentially be subject to the proposed ban. MassDEP is working with haulers, service providers, and broker to inform them of the ban and to offer technical assistance through the RecyclingWorks program,. MassDEP and RecyclingWorks are working to develop a more comprehensive strategy that will be implemented after the final regulations have been promulgated. There may be direct mailings to reach out to the estimated 1,700 generators potentially subject to the ban, potentially in collaboration with business and trade associations

Q: Is there a plan in place to utilize available data to see the amount of organic waste that has been diverted?

A: A plan is being developed that will make use of data from the annual facility certifications and reports, other data available about on-site systems, and waste characterization data that will be updated every three years.

Q: Will there be a stakeholder group to look at food waste compost and what to do with digestate from AD facilities?

A: MassDEP has looked into marketing as part of the Organics Action Plan, but does not have a specific group formed to look at these issues. This will continue to be addressed in the course of Organics Subcommittee discussions. In addition, MassCEC & DAR are working on these issues as well.

Next Meeting

The next meeting of the Solid Waste Advisory Committee is scheduled for Thursday, January 23, 2014 at MassDEP's Boston Office. However, because of the upcoming regulation and policy changes, an interim meeting may be held. An email will be sent out if an additional meeting is scheduled before the January 23, 2014 meeting. Proposed agenda topics for the next meeting are:

- An update on how any proposed gasification or pyrolysis facilities would be regulated and permitted.
- An update on waste ban compliance and enforcement activities and progress.